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10/809,383	03/26/2004	Mathias Sonnek	07781.0160-00	7611

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EXAMINER	
BAIRD, EDWARD J	

ART UNIT	PAPER NUMBER
3695	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,383	SONNEK ET AL.	
	Examiner	Art Unit	
	Ed Baird	3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 November 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-13,15-21,23,24,27 and 28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-13,15-21,23,24,27 and 28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Applicant has amended claims 1, 9, 17, 25, and 27. No claims have been added or canceled. Claims 6, 14, 22 and 26 had been canceled prior to the previous office action. Thus, claims 1-5, 7-13, 15-21, 23-25, 27, and 28 remain pending in this application.

Response to Arguments

2. Applicant's arguments and amendments filed on **24 November 2010** with respect to

- objection to claims 1, 5, 8, 9, 16, 17, 24, 25, and 27;
- rejections of claims 1-5, 7-13, 15-21, 23-25, 27 and 28 under U.S.C. § 112, second paragraph;
- rejections of claims 1-5, 7-13, 15-21, 23-25, 27, and 28 under 35 U.S.C. § 103(a);

have been fully considered.

3. Examiner acknowledges arguments regarding objections to claims 1, 5, 8, 9, 16, 17, 24, 25 and 27. Arguments are persuasive and, in turn, Examiner withdraws objections.

4. Examiner acknowledges arguments regarding 35 U.S.C. § 112, 2nd paragraph rejections and the terms "presettable" and "settable" in claims 1, 5, 8, 9, 16, 17, 24, 25 and 27. Arguments are persuasive and, in turn, Examiner withdraws rejections.

5. Examiner acknowledges arguments regarding 35 U.S.C. § 112, 2nd paragraph rejections and the term "depending upon the manner or degree to which... [a] condition [is] satisfied" in claims 1, 9, 17 and 25. However, arguments are not persuasive. The terms "depending upon the manner or degree" do not clearly set forth metes and bounds to limit the claims. Accordingly, Examiner maintains rejections.

6. Examiner acknowledges amendments to claims 1, 9, 17 and 25 to overcome 35 U.S.C. § 112, 2nd paragraph rejections regarding the term "the specific condition in question" and, in turn, withdraws rejections.

7. Examiner acknowledges and accepts arguments regarding 35 U.S.C. § 112, 2nd paragraph rejections and the term "the calculated impairment price" in claims 7, 8, 16, 23 and 24 and, in turn, withdraws rejections.

8. Examiner acknowledges amendments to claim 25 to overcome 35 U.S.C. § 112, 2nd paragraph rejections regarding the term "the difference between the intermediate value and *an* intermediate value" and arguments regarding "testing the intermediate variable" and, in turn, withdraws rejection. However, Examiner objects to the wherein statements:

- wherein automatically forming the intermediate variable from the book value and the market value further comprises automatically calculating, by a processor, the intermediate variable; and
- wherein automatically testing the intermediate variable to determine whether it satisfies one or more presettable conditions includes testing the disparity between the intermediate variable and an average value for the intermediate variable ascertained over a settable period of time, by a presettable amount.

being disconnected from the "wherein" statements:

- automatically forming, by a processor, an intermediate variable from the book value and the market value;
- automatically testing, by a processor, the intermediate variable to determine whether it satisfies one or more presettable conditions;

earlier in the claim.

9. Examiner acknowledges amendments to claim 27 to overcome 35 U.S.C. § 112, 2nd paragraph rejection regarding the term "drawing attention" and, in turn, withdraws rejection.

10. Applicant's arguments filed with respect to claims 1-5, 7-13, 15-21, 23-25, 27, and 28 regarding the 35 U.S.C. § 103(a) have been fully considered but they are not persuasive.

11. Examiner disagrees with arguments regarding "manner or degree to which the conditions are satisfied" [Remarks page 20] on *two* counts. First, Examiner maintains that "*offering advice*" as disclosed by **Jones** [column 28 lines 24-37] is indicative of Applicant's displaying the "*manner or degree to which the conditions are satisfied*" based on the broadest reasonable interpretation of the term "*manner or degree to which the conditions are satisfied*". Second, Examiner also maintains 112, 2nd paragraph rejection that the term "*manner or degree to which the conditions are satisfied*" is vague and indefinite.

12. In response to applicant's argument that there is no suggestion to combine the references [Remarks page 21], the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). *As reiterated from Office Action dated 26 August 2010*, both **Jones** and **Brown** disclose managing investment portfolios [**Jones** Abstract and **Brown** Abstract] and **Fickes** discloses a system and method for defining the value of a corporation by its categories of values, and determining the risk profile of the corporation [Abstract]. **Adhikari** also evaluates business valuations [Abstract]. Each reference is clearly related to valuating assets (securities) as is the instant invention.

13. Examiner disagrees with Applicant's statement that **Brown** teaches away from **Jones** in that **Brown** is designed to **lose** money, and **Jones** is designed to optimize a portfolio to make money [remarks page 21 and 22]. The objective of **Brown** is to provide *tax loss harvesting* [0011] and not lose money as the Applicant purports.

Claim Objections

14. Regarding **claim 25**, Examiner objects to the wherein statements:

- wherein automatically forming the intermediate variable from the book value and the market value further comprises automatically calculating, by a processor, the intermediate variable; and
- wherein automatically testing the intermediate variable to determine whether it satisfies one or more presettable conditions includes testing the disparity between the intermediate variable and an average value for the intermediate variable ascertained over a settable period of time, by a presettable amount.

because they are disconnected from the wherein limitations:

- automatically forming, by a processor, an intermediate variable from the book value and the market value;
- automatically testing, by a processor, the intermediate variable to determine whether it satisfies one or more presettable conditions;

earlier in the claim. For the purpose of clarity, the wherein clauses should be rolled into the limitations to read something similar to:

- automatically forming, by a processor, an intermediate variable from the book value and the market value comprising automatically calculating, by a processor, the intermediate variable;

- automatically testing, by a processor, the intermediate variable to determine

whether it satisfies one or more presettable conditions by testing the disparity between the intermediate variable and an average value for the intermediate variable ascertained over a settable period of time, by a presettable amount;

Appropriate correction is required.

Claim Rejections - 35 USC § 101

15. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

16. Claims 9-13, 15-21, 23 and 24 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

17. **Claims 9-13, 15 and 16** are rejected under 35 U.S.C. §101 because it overlaps two different statutory classes of invention as set forth in 35 § U.S.C. §101. "A claim of this type is precluded by express language of 35 U.S.C. §101 which is drafted so as to set forth statutory the statutory classes of invention in the alternative only", *Ex parte Lyell* (17USPQ2d 1548). Specifically, the limitations:

- a memory for storing data;
- a memory for storing programs;
- a central processing unit comprising at least one computer processor and executing

programs;

appear to be system components, and limitations:

- the central processing unit ascertaining a book value for each object in an

accounting system;

- the central processing unit determining a market value for each object;

and following appear to be method steps. To overcome this rejection, the limitations must clearly indicate stem components or method steps. Appropriate correction is required.

18. **Claims 17-21, 23 and 24** are machine-readable media and, based on the broadest reasonable interpretation and based on the instant specification [060], include both tangible and transitory media. Transitory embodiments are not directed to statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007). Thus, to qualify as § 101 statutory, the claim language should clearly indicate non-transitory tangible media. Appropriate correction is required.

Claim Rejections - 35 USC § 112

19. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

20. Claims 1-5, 7-13, 15-21, 23-25, 27, and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

21. Regarding **claims 1, 9, 17 and 25**, in the limitations:

- automatically performing, by a processor, one or more actions depending upon *the manner or degree to which* one or more of the presettable conditions are satisfied; *and*
- displaying the manner or degree to which the presettable conditions are satisfied;

the term "depending upon/ based on the manner or degree to which one or more of the presettable conditions are satisfied" is vague and indefinite. Manner and degree are not parameters in whether or not a condition is satisfied.

For purposes of examination, the term limitations will be interpreted to read:

- automatically performing, by a processor, one or more actions depending upon *whether or not* one or more of the *presettable* conditions are satisfied; *and*
- displaying *whether or not* the *presettable* conditions are satisfied.

Appropriate correction is required.

22. Regarding **claim 9**, the terms "programs" and "executing programs" are indefinite in that it is not clear whether the terms are equivalent or not.

23. Regarding **claim 9**, the limitations "a memory for storing data" and "a memory for storing programs" are merely statements of intended use in as much as the memory does not explicitly ***store*** data or explicitly ***store*** programs. It is also not clear whether the memories are the same or different.

24. **Claims 9** claims a *system* but also seems to claim the particulars of a *method* in the steps. Accordingly, the claim is not sufficiently precise due to the combining of two different statutory classes of invention in a single claim. The preamble the claim refers to a *system*, but the body of the claim discusses the specifics of a *method*. A claim is considered indefinite if it does not apprise those skilled in the art of its scope. *Amgen, Inc. v. Chugai Pharm.*

25. **Claim 17** claims a *computer readable medium* but it is indefinite in that it does not explicitly claim a tangible medium alone, or both ***tangible and transitory media***. Accordingly, the claim is not sufficiently precise.

26. **Claims 9-13, 15 and 16** are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for ***omitting essential structural cooperative relationships of elements***, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are between:

- a memory for storing data;

- a memory for storing programs;
- a central processing unit
- at least one computer processor,
- executing (i.e. *adj.*) programs;

27. **Claims 2-5, 7, 8, 10-13, 15, 16, 18-21, 23, 24, 27, and 28** are rejected as being dependent on a rejected claim.

28. *Art rejections below are made with respect to 112, second paragraph rejections above*.

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

30. Claim 1-5, 9-13, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brown et al** (US Pub. No. 2002/0059127) in view of **Jones et al** (US Patent. No. 7,016,870).

31. Regarding **claim 1, Brown** teaches:

- automatically ascertaining, by a processor, a book value for each object in an accounting system - *see at least* [0018] and [0031]. Examiner interprets *cost basis or then present value of each individual security* as analogous to Applicant's *book value*. Examiner notes that because rebalancing, tax loss harvesting, and trading functions are performed

automatically by computerized systems [0018], automatically *ascertaining* the book value is inherent in his method.

- automatically determining, by a processor, a market value for each object [0033].
- automatically forming, by a processor, an intermediate variable from the book value and the market value [0033]. Examiner interprets *current index value* as analogous to Applicant's *intermediate variable.*
- automatically testing, by a processor, the intermediate variable to determine whether it satisfies one or more *presettable* conditions - [0042] and [0043]. Examiner interprets *tax loss harvesting process* as including Applicant's *automatically testing the intermediate variable*;

Brown does not explicitly disclose:

- displaying *whether or not* the *presettable* conditions are satisfied.

However, **Jones** discloses a financial advisory system which produces forecasts for financial advisory services [column 3 lines 40-57]. He further discloses the financial advisory system which provides an *initial diagnosis* based upon the user's risk preference, savings rate, and desired risk-return tradeoffs [column 6 lines 38-44].

Jones discloses recommending portfolio allocations [column 17 lines 44-62] and recommending a fixed target asset-mix [column 19 lines 10-18] as well as other investment mix/ balancing strategies throughout. He further discloses displaying information to a user [column 7 line 56-column 8 line 2] and alerts to notify users of advice transmitted immediately to the user by telephone, fax, email, pager, fax, or similar *messaging* system [column 28 lines 24-37]. He further discloses *offering advice*, *displaying an alert* and *recommending reallocation* to improve portfolio performance [column 28 lines 24-37]. Examiner interprets *advice, alerts,* and *need for affirmative action* as indicative of Applicant's *displaying before (emphasis added) a sale or*

purchase of each object. Examiner notes that *advice* by its nature only makes sense if it is offered prior to performing an action (herein, rebalancing a portfolio).

Further, **Jones** discloses *generating portfolio scenarios* and *recommendations* thereof and *exposure to asset classes* [column 4 lines 18-44]. Examiner interprets such *recommendations* as indicative of Applicant's *whether or not* the *presettable* conditions are satisfied.

Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Brown's** invention to include *initial diagnosis of a portfolio* as taught by **Jones** because the diagnosis can result in a series of suggested actions including rebalancing the portfolio, increasing savings, retiring later, or adjusting investment risk - **Jones** [column 6 lines 38-44].

32. Regarding **claims 2, 10, and 18, Brown** teaches balance sheet objects as securities - *see at least* [0013]-[0017].

33. Regarding **claims 3, 11, and 19, Brown** teaches the market value as the price of the object multiplied by the number of units available - see at least [0041]-[0043].

34. Regarding **claims 4, 12, and 20, Brown** teaches the intermediate variable as a difference between the book value and the market value - *see at least* [0034]. Examiner interprets the difference between *the present market value* and *the stored historical cost value* as analogous to Applicant's *intermediate variable.*

35. Regarding **claims 5, 13, and 21, Brown** teaches *presettable* condition as the disparity between the intermediate value and a maximum disparity for the intermediate variable - *see at least* [0034] - Examiner interprets *predetermined loss threshold* as analogous to Applicant's *maximum disparity for the intermediate variable*; - ascertained over a *settable* period of time by a *presettable* amount - *see at least* [0041].

36. **Claims 9 and 17** are a system claim and an apparatus claim, respectively, substantially similar to the method of claim 1, and are thus rejected for the same reasons.

37. Claim 7, 8, 15, 16, and 23-25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown** in view **Jones** in further view of **Fickes** (US Pub. No. 2005/0262014).

38. Regarding **claims 7, 15 and 23, Brown** teaches *a* calculated impairment price as a market price for the object [see at least 0034]. Examiner interprets *present market value of each security* as analogous to Applicant's *impairment price*. However, neither **Brown** nor **Jones** explicitly discloses displaying such prices.

However, **Fickes** discloses a system and method for defining values of corporations by its categories of values, and determining risk profiles accordingly [Abstract]. These values include Category I - - Current Realizable Value, Category II -- Value of Existing Business, Category III -- Infrastructure Value, and Category IV --Venture Value. Categories II through IV represent values over (or under) Category I - *see at least* [0073]-[0081]. **Fickes** further discloses displaying values of the "metrics" for a company - see at least [0134]. Examiner interprets these *metrics* are being inclusive of Applicant's *calculated impairment price* as a market price (*Category I - - Current Realizable Value*).

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *displaying a calculated impairment price as a market price* as taught by **Fickes** because it allows a user to the user to build a logical set of criteria for defining a peer group by specifying [sic] lower and upper boundaries for any number of metrics - **Fickes** [0133].

39. Regarding **claims 8, 16 and 24,** neither **Brown** nor **Jones** explicitly discloses *a* calculated impairment price as a market price for the object increased or reduced by a presettable value, and neither discloses displaying a calculated impairment price (from claim 1).

However, **Fickes** discloses a system and method for defining values of corporations by its categories of values, and determining risk profiles accordingly [Abstract]. These values include Category I -- Current Realizable Value, Category II -- Value of Existing Business, Category III -- Infrastructure Value, and Category IV --Venture Value. Categories II through IV represent values over (or under) Category I - *see at least* [0073]-[0081]. **Fickes** further discloses displaying values of the "metrics" for a company - *see at least* [0134]. Examiner interprets these *metrics* are being inclusive of Applicant's *impairment price* as a market price for the object increased or reduced by a presettable value as in *Categories II through IV* discussed herein.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *displaying a calculated impairment price as a market price for the object increased or reduced by a presettable value* as taught by **Fickes** because it allows a user to build a logical set of criteria for defining a peer group by specifying [sic] lower and upper boundaries for any number of metrics - **Fickes** [0133].

40. Regarding **claim 25, Brown** teaches:

- automatically ascertaining, by a processor, a book value for each object in an accounting system;
- automatically determining, by a processor, a market value for each object;
- automatically forming, by a processor, an intermediate variable from the book value and the market value;

- automatically testing, by a processor, *an* intermediate variable to determine whether it satisfies one or more presettable

as discussed in the rejection of claim 1. **Brown** also teaches:

- automatically testing the average intermediate variable . . ., to determine whether it satisfies one or more presettable conditions - *see at least* [0033] and [0034]. Examiner interprets *stored historic cost value* as analogous to Applicant's *average intermediate variable*.
- . . . over a *settable* period of time . . . over a *presettable* amount - see at least [0032]-[0034]. Examiner interprets *predetermined loss threshold* as analogous to Applicant's *presettable amount*.

Neither **Brown** nor **Jones** explicitly discloses:

- displaying a calculated impairment price.

However, **Fickes** discloses a system and method for defining values of corporations by its categories of values, and determining risk profiles accordingly [Abstract]. These values include Category I - - Current Realizable Value, Category II -- Value of Existing Business, Category III -- Infrastructure Value, and Category IV --Venture Value. Categories II through IV represent values over (or under) Category I - *see at least* [0073]-[0081]. **Fickes** further discloses displaying values of the "metrics" for a company [00134]. Examiner interprets these *metrics* are being inclusive of Applicant's *impairment price*.

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *displaying an impairment price* as taught by **Fickes** because it allows a user to build a logical set of criteria for defining a peer group by specifying [sic] lower and upper boundaries for any number of metrics - **Fickes** [0133].

41. Claim 27 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown** in view **Jones** in further view of **Fickes** in further view of **Adhikari** (US Pub. No. 2004/0158479).

42. Regarding **claim 27,** neither **Brown, Jones,** nor **Fickes** explicitly disclose:

- wherein displaying a calculated impairment price comprises *using a* screen icon.

However, **Adhikari** discloses methods and systems for calculating business valuations and using iterative processes to generate a maximum business value based on conditions and requirements of interested parties [0002]. He further discloses the use of a "best value" *icon* which generates and displays an optimized value representing required Buyer Equity - *see at least* [0060], [0069], [0076] and [0083]. Examiner interprets *Buyer Equity* as analogous to Applicant's *impairment price.*

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of **Brown's** invention to include *using a "best value" icon to generate and display optimized values* as taught by **Adhikari** because it allows a user maximum versatility in determining the factors most critical to a transaction and in calculating the best value of part of a transaction - **Adhikari** [0086].

43. Claim 28 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Brown** in view **Jones** in further view of **Fickes** in further view of **Adhikari** and **Kumar et al** (US Pub. No. 2002/0019810).

44. Regarding **claim 28,** neither **Brown**, **Fickes** nor **Adhikari** explicitly discloses displaying the difference between an amortized acquisition value of the object and an impairment value of the object.

However, **Fickes** discloses determining *Category I, II, III, and IV values* - see at least [0073] to [0082] and displaying related "metric" values **[00134]**. **Fickes** defines Category III - -

Infrastructure values are defined as "the discounted value of expected future cash flows from business which can reasonably be expected to be produced in future years, from new sales" [0079]. Examiner interprets this "*discounted value*" as analogous to Applicant's *amortized acquisition value*.

Fickes does not explicitly disclose the "*difference*" between the (amortized) acquisition value and an impairment value of the object. However, **Kumar** discloses a system for updating parameters of financial transactions associated with financial services [0021]. He further discloses an account display window listing the *purchased price* ands the *current value* of each commodity owned [0256]. Examiner interprets *purchased price* as analogous to Applicant's acquisition value and *current value* as analogous to Applicant's *impairment value*. Examiner notes Applicant's definition of *impairment value* in instant specification [077].

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the instant invention to modify **Brown's** disclosure to include *displaying the purchased price and the current value of a commodity* as taught by **Kumar** because a user's cumulative gain or loss presented in both dollar value and percentage can be seen - **Kumar** [0257].

Conclusion

45. The prior art of record and not relied upon is considered pertinent to Applicant's disclosure:

- **Friedman et al**: "Method for assessing the economic earnings performance of a business enterprise", (US Pub. No. 2004/0128217).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571)270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles R. Kyle can be reached on 571-272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Baird/
Examiner, Art Unit 3695

/Narayanswamy Subramanian/
Primary Examiner, Art Unit 3695